

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE AKORN, INC. SHAREHOLDER
DERIVATIVE LITIGATION

This Document Relates to:
ALL ACTIONS

Civ. A. No. 1:18-cv-07374

Judge John J. Tharp, Jr.

Magistrate Judge M. David Weisman

**JOINT MOTION FOR APPROVAL AND ENTRY OF STIPULATION AND
[PROPOSED] ORDER OF DISMISSAL**

Defendants John N. Kapoor, Rajat Rai, Mark M. Silverberg, Duane A. Portwood, Alan Weinstein, Kenneth S. Abramowitz, Steven J. Meyer, Terry Allison Rappuhn, Adrienne L. Graves, Ronald M. Johnson, Brian Tambi, and Defendant and Nominal Defendant Akorn, Inc. (collectively “Defendants”), and Plaintiffs Dale Trsar, Trustee of the Dale A. Trsar Trust and Felix Glaubach (“Plaintiffs” and, together with Defendants, the “Parties”), jointly move this Court to approve and enter the Parties’ Stipulation and [Proposed] Order of Dismissal, submitted to the Court via e-mail pursuant to the Court’s procedures on March 3, 2020.

1. Prior to the filing of the above-captioned case, a derivative suit, *Kogut v. Akorn, Inc., et al.*, No. 646,174 (La. Dist. Ct.) (the “*Kogut* Action”), was filed in the 19th Judicial District Court for the Parish of East Baton Rouge, Louisiana (the “Louisiana Court”).

2. The parties to the *Kogut* Action entered into a Stipulation and Agreement of Settlement dated December 12, 2019 (the “*Kogut* Settlement”).

3. Pursuant to a Preliminary Approval Order issued by the Louisiana Court, Akorn, Inc. provided notice of the *Kogut* Settlement to its shareholders by filing a Notice of Proposed Settlement (the “Settlement Notice”) with the U.S. Securities and Exchange Commission

on a Current Report on Form 8-K, posting the Settlement Notice on its website, and publishing the Settlement Notice in *Investor's Business Daily*.

4. The Louisiana Court entered a Final Order and Judgment on January 22, 2020 (the “*Kogut* Final Order and Judgment”), granting final approval of the *Kogut* Settlement and releasing “any and all actions, suits, [or] claims . . . that have been or that might have been asserted by . . . any Akorn stockholder against any Released Persons derivatively . . . based upon or related to the facts, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act” alleged in the *Kogut* Action.

5. The above-captioned case is brought by Plaintiffs Dale Trsar, Trustee of the Dale A. Trsar Trust and Felix Glaubach, derivatively on behalf of Akorn and alleges some of the same claims as asserted in the *Kogut* Action.

6. Without conceding that the above-captioned action is “based upon and related to” the same facts and transactions at issue in the *Kogut* Action or that the claims asserted in the above-captioned case are released by the *Kogut* Final Order and Judgment, Plaintiffs believe that continued prosecution of this action is no longer in the best interests of Akorn, on whose behalf this action is brought.

7. The Parties have met and conferred and agree that the above-captioned action should be voluntarily dismissed with prejudice, with each side bearing its own costs and attorneys’ fees.

8. No payment or other consideration has been provided in exchange for the agreement set forth in the Parties’ Stipulation and [Proposed] Order of Dismissal.

WHEREFORE Defendants and Plaintiffs jointly move this Court for approval and entry of their Stipulation and [Proposed] Order of Dismissal.

DATED: March 3, 2020

Respectfully submitted,

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